



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DATE/TIME: Monday, November 16, 2009
7:00 p.m.

LOCATION: Police Department Auditorium
870 Santa Barbara Drive

Roll Call

1. Minutes of October 19, 2009 (*attachment*)
2. Report from subcommittee on Draft EIR for Sunset Ridge Park (4850 West Coast Highway, corner of Superior Avenue) (*Subcommittee report attached*)
3. Recommendation to City Council regarding appointment to Environmental Expertise position
4. Task Force on Green Development Representatives' Report
5. Coastal/Bay Water Quality Committee Representatives' Report
6. Economic Development Committee Representative's Report
7. Report from Staff on Current Projects
8. Public Comments
9. Future Agenda Items
10. Adjournment

NEXT MEETING DATE: **December 21, 2009**

*Attachments can be found on the City's website <http://www.newportbeachca.gov>. Once there, click on **Agendas and Minutes** then scroll to and click on **Environmental Quality Affairs**. If attachment is not on the web page, it is also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2nd Floor.



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DRAFT MINUTES 10-19-09

Draft minutes of the Environmental Quality Affairs Committee held at the City of Newport Beach City Council Chambers, 3300 Newport Boulevard, on **Monday, October 19, 2009.**

Members Present:

X	Nancy Gardner, Council Member	X	Barbara Thibault
X	Michael Henn, Council Member	X	Laura Curran
X	Kenneth Drellishak, Chair	X	Vincent Lepore
X	Kimberly Jameson	X	Kevin Nolen
X	Kevin Kelly	E	Arlene Greer
		E	Sandra Haskell
X	Michael Smith	X	Kristine Adams
	Jeff Herdman	X	Timothy Stoaks
X	Nick Roussos	X	Jay Myers
X	Joan Penfil	E	Charles McKenna
X	Bruce Asper	E	Ray Halowski
	Merritt Van Sant	X	Michael Altı

Staff Representatives:

Guests:

X	Sharon Wood, Assistant City Manager	Philip Bettencourt Jim Fitzpatrick Gail Reisman
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Chairperson Drellishak called the meeting to order at 7:04 p.m.

1. Minutes of September 21, 2009

Michael Altı moved and Kristine Adams seconded to approve the minutes of September 21, 2009.

Motion passed unanimously

2. Report from subcommittee on Draft EIR for City Hall and Park Development Project (1000, 1100, 1300 and 145 Avocado Avenue)

The Committee reviewed and discussed amendments to the draft comments. Joan Penfil moved and Kevin Kelly seconded that the comments be approved as amended.

Motion passed unanimously

3. Discussion and recommendation to City Council on potential regulation of leaf blowers

Chairperson Drellishak thanked Kimberly Jameson, Laura Curran and Kristine Adams for the additional information in the report. Joan Penfil moved and Michael Altı seconded that the report be sent to the City Council.

Motion passed unanimously

4. Review and confirmation of subcommittee assignments on Draft EIR for Sunset Ridge Park

Chairperson Drellishak discussed review assignments and advised members that comments are due to him on November 11, 2009.

5. Task Force on Green Development Representative's Report

Council Member Gardner reported that a white paper with recommendations will be on the City Council study session agenda in November.

6. Coastal/Bay Water Quality Committee Representative's Report

No report

7. Economic Development Committee Representative's Report

Chairperson Drellishak reported that the September meeting included a presentation on the Newport Beach Film Festival and on the traffic signal synchronization project.

8. Report from Staff on Current Projects

Sharon Wood reported that the Draft EIR on the Banning Ranch project will be available for public review in January 2010.

9. Public Comments - None.

10. Future Agenda Items

11. Adjournment

Chairperson Drellishak adjourned the meeting at 9:15 p.m.

TO: Janet Johnson Brown, Associate Planner

November 17, 2009

FROM: Environmental Quality Affairs Citizens' Advisory Committee (EQAC)

SUBJECT: Comments on Sunset Ridge Park DEIR, SCH. NO. 2009051036, dated
October 2009

EQAC is pleased to submit the following comments related to the Subject DEIR in hopes that they will contribute to a more complete understanding of the proposed project and a better project for the City of Newport Beach. Comments are presented in order of appearance in the DEIR with appropriate section and page references to help facilitate your responses.

1.0 EXECUTIVE SUMMARY

1.3 Project Summary (p.1-2): The DEIR is vague about total parking provided. It states that the lot at the end of the access road will provide 75 spaces and that an additional 22 spaces "may be provided along the park access road". This vagueness continues on p.3-8 with the projection of "up to 22 parallel parking spaces along the access road". The issue is not clarified in the parking plan shown in Exhibit 3-11 or in the analyses of Section 4.3, Transportation and Circulation. Please include a direct statement of the parking requirements with reference to the supporting analysis.

The DEIR states that all 34,000 cubic yards (cy) of excess material excavated from the site "would go to identified locations in the adjacent Banning Ranch property". There are no locations shown and no acknowledgement that an easement would be required from the Banning Ranch owner as was identified for the access road. What approvals and controls apply to the disposal of 34,000 cy of excavated material in Banning Ranch?

4.1 LAND USE

Arts and Cultural Element. The DEIR states that "no goals or policies of the Arts and Cultural Elements (sic) are applicable to the proposed Project" (DEIR, p. 4.18). However, the DEIR should address at least whether the proposed Project can or will further the goal contained in the Arts and Cultural Element of providing "improved and expanded arts and cultural facilities and programs to the community."

Coastal Development Permit. The DEIR states that the City of Newport Beach CLUP applies only to properties within the City's boundaries (DEIR, p. 4.1-9). Only 13.7 acres of the Project site are located within the City's boundaries. 5.2 acres of the site are located in unincorporated Orange County within the City's Sphere of Influence. The DEIR states that those 5.2 acres constitute a "Deferred Certification Area (DCA)", but

the DEIR does not explain the significance of DCAs, including how they are processed and by whom. The DEIR should clearly state when and how a coastal development permit will be processed for the 5.2 acres located outside of the City's boundaries, and which agency will be responsible for doing so.

LAFCO Proceedings. The Land Use section of the DEIR does not make any mention of whether the City intends to annex the 5.2 acres currently located outside the City's boundaries but within its sphere of influence. The DEIR should clearly state whether or not the City intends to annex those 5.2 acres, and whether any LAFCO proceedings will be initiated as part of the proposed Project. If not, the DEIR should clarify whether any approvals from the County of Orange will be required with respect to the 5.2 acres.

Zoning for the 5.2 Acres Outside the City's Boundaries. The DEIR states that the County of Orange zoning designation "for the portion of the Project site (5.2 acres) proposed for the access road is Local Business with an Oil Production Overlay [C1(O)] (DEIR, p. 4.1-12). The DEIR does not state whether a zone change will be required for that portion of the Project site to allow use of a park site. The DEIR should clarify this issue and explain whether the County would process that zone change or whether the City will annex that property and consequently change its zoning.

Thresholds of Significance. There are three thresholds of significance related to land use: (1) conflicting with any applicable land use plan, policy or regulation of an agency with jurisdiction over the Project, (2) physically dividing an established community and (3) conflicting with any applicable habitat conservation plan or natural community conservation plan. Section 4.1.6 is poorly organized and does not clearly delineate those three thresholds.

Height of Buffer. The DEIR states that the buffer between the Newport Crest development and the Project "would vary in height and would vary in width from approximately 60 feet to 80 feet" (DEIR, p. 4.1-14). The DEIR should state the height of the buffer.

Conclusory Statements about Compatibility with Adjacent Land Uses. CEQA requires that an EIR contain facts and analysis, not just bare conclusions. The section in the DEIR entitled "Compatibility with Surrounding Off-Site Land Uses" describes the project and the adjacent land uses but provides minimal analysis about compatibility with those land uses. The DEIR states only that a landscaped buffer would be provided between the Newport Crest community and the active park uses. Other than the mention of the buffer, there is no discussion about the Project's compatibility with Newport Crest. Likewise, the DEIR describes the existing land uses to the east and merely concludes that "the proposed Project is considered compatible with land uses east of the site" (DEIR, p. 4.1-15). The DEIR should provide additional analysis to support its conclusions that "the proposed Project is considered a compatible land use with existing and proposed land uses bordering the Project site. No significant land use compatibility impacts would be associated with the Project" (DEIR, p. 4.1-16).

Cumulative Impacts. Additional facts and analysis are needed to support the conclusion that “because the proposed project would result in a new community park that is compatible with surrounding land uses and is anticipated by these relevant planning documents, the Project’s contribution to cumulative land use and planning impacts is less than significant” (DEIR, p. 4.1-17). The DEIR should also discuss cumulative land use impacts in light of the proposed Banning Ranch project.

General Plan Consistency Analysis

Land Use Element Goal LU 2. With respect to the goal of providing “a living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique,” the DEIR includes a conclusory statement that merely describes the Project without providing any analysis about the Project’s consistency with that goal. Additional facts and analysis are needed

Land Use Element Policy 2.6. Instead of simply describing the Project, the DEIR should include some analysis of how the Project will “provide uses that serve visitors to Newport Beach’s ocean, harbor, open spaces, and other recreational assets, while integrating them to protect neighborhoods and residents.”

Land Use Element Goal LU 3. This goal is for a “development pattern that retains and complements the City’s residential neighborhoods, commercial and industrial districts, open spaces and natural environment.” Again, the DEIR simply includes a conclusory statement about its compatibility with surrounding uses. The DEIR should contain specific facts and analysis about how the Project complements uses adjacent to the Project. This comment applies as well to Land Use Element Goal LU 5.6, LU Policy 5.6.1 (Compatible Development), and LU Policy 6.1.1 (Siting of New Development), where additional facts and analysis are also needed to support the conclusions.

LU Policy 6.2.5. This policy states that new uses “shall be designed to ensure compatibility with adjoining residential (sic) addressing such issues as noise, lighting and parking. The DEIR states that “compatibility with noise and parking are discussed below” and provides some descriptive information about the Project, but it does not contain sufficient analysis about whether the Project has been designed to ensure compatibility with adjoining residential uses. Additional facts and analysis should be provided.

LU Policy 6.3.2. The DEIR states that “the proposed Sunset Ridge Park uses would not preclude the future development of the Newport Banning Ranch property consistent with either the General Plan OS or RV land use designations.” The DEIR should discuss whether the proposed access road through the Banning Ranch site would affect development of Banning Ranch, and whether it would affect the City’s policy of supporting the active pursuit of the acquisition of Banning Ranch as permanent open space.

LU Policy 6.5.3. This policy is to “restore and enhance wetlands and wildlife habitats.” The DEIR only states that a biological assessment and jurisdictional delineation have been prepared and that permits will be obtained from regulatory agencies. This section of the DEIR should contain facts or analysis specifically addressing the policy of restoring and enhancing habitats.

NR Policy 1.2 (Use of Water Conserving Device). The DEIR mentions that the City’s Water Conservation Ordinance requires an approved water use plan (DEIR, p. 4.1-43). The DEIR should state whether a water use plan been proposed for this Project. In addition, other than simply referring to the City’s ordinance, the DEIR should contain some analysis about how the Project will “establish and actively promote use of water conserving devices and practices.”

Natural Resources Element Goal NR 6 (Reduced mobile source emissions). The DEIR concludes that “the Project would reduce mobile emissions during construction as well as mobile emission sources.” This DEIR should contain additional facts and analysis to support this conclusion.

Natural Resources Element Goal NR 20 (Preservation of significant visual resources). The DEIR concludes that “no public views would be adversely impacted with the Project.” The DEIR should contain additional facts and analysis to support this conclusion, particularly given the Project’s proximity to Newport Crest.

Coastal Land Use Plan Policy 2.1.9-1. With respect to this policy, this section of the DEIR merely includes some descriptive information about the Project but does not give any analysis about how the Project “shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations.” Additional facts and analysis are needed.

Inconsistency Regarding California Gnatcatcher. On page 4.1-68, the DEIR states that “this habitat is not occupied by the California gnatcatcher.” However, on page 4.1.81, the DEIR states “the Project site contains one pair of coastal California gnatcatchers.” This inconsistency should be resolved.

4.2 AESTHETICS

The DEIR acknowledges that the “residents of the Newport Crest Condominium development located immediately to the north have expansive views of the Project site and the Pacific Ocean located approximately ½ mile further to the south.” *See Aesthetics,*” p. 4.2-3. The DEIR clearly acknowledges that “[i]mplementation of the proposed Sunset Ridge Park would alter the existing visual character and use of the Project site, and the *views from the surrounding land uses would be changed.*” *See Aesthetics,*” p. 4.2-8.

Additionally, in the Executive Summary, under 1.6 AREAS OF CONTROVERSY AND ISSUES TO BE RESOLVED, the issue of impacts on public and private views is raised. The DEIR acknowledges that it must address “[w]hether the Project would adversely affect public and private views.” See Executive Summary, page 1-5.

Further, under the classification of “Potentially Significant Impact,” the NOP promised that “[t]he character of the existing aesthetic environment and visual resources, including a discussion of views within the site and views of the site from *surrounding areas*, will be addressed in the EIR.” NOP, page 17.

However, there is no discussion in the DEIR of effects/impacts on the private views. The DEIR must be revised to include the promised/required discussion of the resolution of this identified “controversy/issue” as promised in the DEIR itself.

Section 15123(b)(3) of the CEQA Guidelines requires that an EIR contain a discussion of issues to be resolved. The Executive Summary states, “[t]he EIR has taken into consideration the comments received from the public, agencies, and jurisdictions” concerning the controversy/issue about adverse affects on public and private views. Some even opened their homes to the City to enable access and determination of the view issues. Yet, there is no discussion, at all, of the adverse effects/impact on the *private* views of the community of Newport Crest (the residential community to the north of, and abutting, the Project), which is significantly and extensively affected by the Project.

Notably, the DEIR presents numerous visual simulated views from every angle surrounding the Project *except* from the north, where Newport Crest is located. Such visual simulations would otherwise provide the data needed for a genuine discussion/resolution of the issue.

The only mention that might be construed as addressing private views is the statement in the DEIR that:

The Project would not adversely alter existing views of site or surrounding area; the Project allows for the development of a park with active and passive uses consistent with the General Plan. The Project would not degrade the visual character of the site or surrounding areas, nor would it impede views of or from the Project site (*Less than significant impact*). See Executive Summary, Threshold 4.2-2, pp. 1-8 through 1-9,

In the absence of any discussion of the private views, it appears the above-quoted DEIR passage at most *implicitly* disposes of that issue by doing no more than stating that the “active and passive uses” are “consistent with the General Plan.” However, evaluation of the adverse effects is and must be based on data, on the actual design of the Park, structures and all.

It must be emphasized that the issue of private views was raised by Newport Crest homeowners, a number of whom regularly attended study sessions, City Council Meetings and meetings of the Parks, Beaches and Recreation Commission concerning the Sunset Ridge Project. As found in one of the many letters that were written in response to the NOP, of which some were copied into the DEIR's Appendix A, these views were raised and a significantly important area of concern:

We were assured by the City that every effort be made not to block/affect our ocean view [that we paid dearly for] would the shade structures for the overlook area and the picnic areas low enough to keep that promise? *See Appendix A.*

In other letters responding to the NOP, other Newport Crest homeowners ask that the DEIR address the following:

The impact the overlook area with a shade structure would have on the homes in Newport Crest. The impact the baseball backstop along third baseline would have on homes in Newport Crest. *See Appendix A.*

A viewshed analysis of the bluff inland of Coast Highway that will be altered by the grading for the access road should be contained in the EIR. It is not necessary that Coast Highway be a Scenic Highway. The view of the bluff itself is a scenic resource that is addressed by Section 30251 of the Coastal Act. The EIR should address the ramifications of section 30251 as it pertains to this project. *See Appendix A.*

Nothing in the DEIR addresses these legitimate points and concerns. The DEIR should be revised to include discussion of these concerns.

The DEIR concludes that there is no impact caused by the proposed lighting for the Project site. However, the basis on which this determination is made consists of data that is not based in fact (that anything in the area already causes similar lighting), and incomplete "Standard Conditions and Requirements." Further, the DEIR is incomplete until it is revised to include assessments as to Lighting based on actual or simulated impacts on the Newport Crest and other affected communities. The DEIR should be revised to include more data upon which a complete evaluation can be made.

On Lighting, the DEIR provides no data whatsoever. It states:

All outdoor lighting would be *appropriately* shielded and oriented in order to prevent light spillage on *adjacent, off-site land uses*. Outdoor lighting associated with the restroom facilities and parking lot *shall not adversely impact residential land uses to the north*, but shall provide sufficient illumination for access and security purposes. See “Project Design Features,” p. 4.2-5.

The DEIR conclusion concerning the level of impact caused by Lighting is based in part on the above, which is not data or analysis, but a “design feature” that the DEIR does not say is necessarily going to be implemented. Further, the terms, “appropriately” and “not adversely impact,” are not defined.

This is especially confusing due to the accompanying discussion, under “Standard Conditions and Requirements,” which identifies the standard as: “shall not be *excessively illuminated*,” or it should not create an “*unacceptable negative impact*.” Under section SC 4.2-2, the DEIR states that the City will prepare a photometric study for approval by the Public Works Director and/or Planning Director, and that the “survey shall show that lighting values *are “1” or less* at all property lines. The DEIR does not identify the criteria for any of these standards. See pp. 4.2-5 – 4.2-6. The criteria should be disclosed in the DEIR.

The DEIR also states that the assessment of the level of lighting is “subjective” (see “Methodology 4.2.5” at p. 4.2-6) and that it will ultimately be up to the Public Works Director and/or Planning Director to make that subjective call. The current conclusion that there is NO IMPACT, then, is technically not accurate. In point of fact, the assessment on Lighting has been deferred to another time, after the photometric study. See section SC 4.2-2 at p. 4.2-6. Will the City issue a DEIR on Lighting once it has more data and/or design details so that it is put to the proper procedure and evaluation? If not, will the public be privy to the study and be invited for comment?

Without providing any data, the DEIR also claims that there is no impact because the Lighting “would not affect nighttime views as the Project site is in an urban environment that is currently subject to similar lighting.” Given that none of the expansive Project site currently has lighting, this statement, without any data to support it, is incomplete. What data support this statement?

Finally, the Methodology indicates that the assessments of the aesthetic/visual changes do not include any views from the north toward the Project site. See p. 4.2-6. Great concern is triggered by the fact that the views of the Project site from the residential communities to the north (i.e., Newport Crest) are not taken into consideration. Though the DEIR purports to be taking Lighting impacts on the northern neighbors into consideration, *it at the same time excludes them from the analysis*.

There was no discussion of the impact to all views that will result from litter and refuse left behind by visitors to the Park. Is there a budget for hourly maintenance of the expansive area? If not, how is the Project going to be maintained?

4.3 TRANSPORTATION

Ingress / Egress Road - Has the dedication (easement) been obtained from the owner of the Newport Banning Ranch property? Have any steps been taken in this regard? Are there any potential or perceived obstacles to obtaining this necessary aspect of the traffic plan?

With respect to the new signal intersection at West Coast Highway, are there any potential or perceived obstacles in obtaining the approval of CalTrans and/or Coastal Commission?

The proposed road ventures straight north before looping back down toward the parking area. Why is that path necessary? The road would be much shorter, and thereby possibly create more actual open park space, if it went straight from West Coast Highway to the parking area, diagonally. Also, the longer the road, the greater the risk of illegal parking as well as loitering at the dark, northern edge of the road late at night.

Parking - With two soccer fields that will be used simultaneously, are 97 spaces sufficient? Is there a parking study to support this number of spaces? At the Bonita Canyon baseball fields, illegal parking is rampant on game days, due to the shortage of parking spaces. Is it possible to provide additional parking in some manner, along the lines of street parking on weekends only, or something like that?

Newport Banning Ranch Project - Does the DEIR address the traffic that would result if the Newport Banning Ranch project is built, as currently planned by the developer? This is not clear from my reading of the report.

4.4 AIR QUALITY

Page 4.4- 31: The first paragraph states that NOx emissions during the mass grading phase of construction will exceed the SCAQMD threshold for maximum daily emissions, resulting in a significant impact, if the projected 34,000 cubic yard export of soil is disposed of other than at the neighboring Newport Banning Ranch property. If such soil is exported, the only mitigation that was addressed is the reduction of haul truck vehicle miles traveled which would extend the estimated 13 week export period to 30 weeks, which the DEIR states is unreasonable mitigation because of the substantial extension of the mass grading period and the prolonged problems of noise and other negative impacts. Since the NOx emissions threshold would not be exceeded if exported soil is exported

only to the Newport Banning Ranch property, why is this not made a mitigation/construction requirement?

Page 4.4-31: In the third line of the second paragraph, should the phrase “spoils site” be “soils site”?

Page 4.4-32: The DEIR states (and Table 4.4-9 indicates) that when the grading work is within 50 meters (164 feet) of sensitive receptors, the maximum daily estimated PM(10) and PM(2.5) emissions would exceed the SCAQMD threshold, and that approximately 25% of the Project is located within 164 feet of the Newport Crest Condominium development. The second paragraph of this page states that due to this fact, the Project would require implementation of SCAQMD Rule 403 dust control measures and that Rule 403 represents the only feasible mitigation measure for dust control, however that any reduction cannot be quantified, and, as such, the local PM(10) and PM(2.5) impact would be significant and unavoidable near Newport Crest during the mass grading period. However, this second paragraph on this page states that Newport Crest is at a higher elevation than the Project, and the first paragraph of Section 4.4.3 on page 4.4-11 states, that on general, the dominate land/sea breezes-winds are onshore during the day and reverse to offshore at night. The Project is on a ridge that has direct exposure to wind off the ocean. However, no analysis of the strength of the wind at the project was provided (other than the before referenced general Costa Mesa comments) or discussion on its possible effects on particulates. There is also no discussion concerning a mitigation measure that takes into account the prevailing winds and the elevation of Newport Coast, and one should be addressed:

Page 4.4-35: The last paragraph of this page states that “GHGs would be emitted by off road and on road construction equipment and worker vehicles, and that the same would vary depending on how much soil is exported to Newport Banning Ranch property and how much soil would be exported to an undetermined destination site. The DEIR has no discussion of why all soil exportation would not be limited to the Banning Ranch property. In fact, the DEIR states (p.1-2) that “ The City proposes that all of the exported soil (34,000 cubic yards) would go to identified locations on the adjacent Banning Ranch property”. Please clarify this inconsistency.

Page 4.4-37: In the first paragraph of Section 4.4.8 on this page, it states that there are no known projects within one-half mile of the Project where major construction would occur concurrently with the proposed Project. A reference to the Banning Ranch project and its status/schedule should be made here.

Page 4.4-38: In the “Standard Conditions and Requirements” subsection of Section 4.4.9, entitled “Mitigation Program”, only SCAQMD Rule 402 and 403 will be required during construction and included as notes on the Project Managers’ specifications (air pollutant emissions not be a nuisance offsite, and fugitive dust be controlled, respectively). On

page 4.4-39, the DEIR states that “no additional measures are feasible”, without an analysis of confining grading to favorable wind conditions. In this regard, note that SCAQMD’s May 12, 2009 response to the NOP specifically states that “in the event the Project generates significant adverse air quality impact, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during the project construction and operation to minimize and eliminate significant adverse air quality impacts.” Please address these exceptional mitigation measures and when they will be employed.

Section 4.4 of the DEIR did not address the following which were raised in letters/emails submitted on the NOP:

The May 14, 2009 NOP letter from the California Department of Conservation, Division of Oil, Gas and Geothermal Resources states that if construction will be over an abandoned well, adequate gas venting system should be placed over the well. This letter also states there are three plugged and abandoned wells within or in proximity to the Project. Air emissions from possible gas venting systems were not addressed in Section 4.4 of the DEIR.

Both the June 8, 2009 NOP letter from the Newport Crest Homeowners Association and the June 3, 2009 NOP email from Gary Garber, a Newport Crest Resident, expressed concern about the excavation of dirt at the Project, and Mr. Garber questioned whether or not the subject soil has been tested for contamination. Contamination of the soils that may end up as dust during construction was not addressed in Section 4.4.

4.5 NOISE

Bottom of p. 4.5-13 thru top of p. 4.5-14 and Exhibit 4.5-3 – Land Use Compatibility
Exhibit 4.5-3 was provided to show that existing CNEL (Community Noise Equivalent Level) ambient noise level tests for current worst case conditions on an active portion of the Project site from the nearest main sources of noise and cumulative future anticipated ambient noise increases will not exceed the 65dBA CNEL ambient noise level considered acceptable for park use per the City’s land use compatibility guidelines (see Table 4.5.1 on page 4.5-4) thus justifying the Project as a compatible land use.

Noise level contour lines are shown on the Exhibit indicating the extent of future cumulative 60 and 65 dBA CNEL ambient noise on the Project. These results were based on recent typical noise levels as measured from what will be the southern edge of the southern soccer field to the center line of the nearest section of West Coast Highway.

Data in the DEIR do not support the conclusion stated above. The CNEL ambient noise data measurement referred to in the DEIR appears to have been made from only this single point yet the data contour lines shown in the Exhibit extend to the west beyond the Project and to the east to the northeastern most corner of the Project. It seems reasonable

that multiple data measuring points along both West Coast Highway and Superior Avenue would be needed to construct the noise level contour lines shown in the Exhibit.

It is also not made clear what future assumptions about ambient noise level increases were used to develop the contour lines which represent both current and future CNEL ambient noise levels on the active portions of the Project site. While there is discussion in the DEIR of potential future traffic noise impacts at sensitive receptor locations at the northern edge of the Project (see Table 4.5-11), these assumptions do not include noise sources associated with the active portions of the Project.

Please provide a more detailed explanation of how the CNEL ambient noise contour lines were developed.

4.6 BIOLOGICAL RESOURCES

p.4.6-7: There is only one drainage feature on the Project site (the concrete trapezoidal flood control channel) in which water is expected to occur and only following storm events. This channel does not carry a permanent flow of water and no low flows or vegetation was present in this channel during the surveys which limits the potential for amphibian species to occur. Therefore, no amphibian species are expected to occur on the Project site.

Please describe the analysis completed regarding flows and vegetation that would support amphibian species. Have studies been done under varying conditions to confirm this finding?

p.4.6-9: Birds, bats, and urban-tolerant wildlife species (e.g., coyotes, opossums, and raccoons) would be able to move through the urban areas from the Reserves to the Project site. However, most terrestrial wildlife species would not be able to move from Newport Bay and the Bolsa Chica Ecological Reserve, through the urban matrix, and to the Project site. Regional movement through the Project site would not occur because much of the Project site borders existing development. However, local wildlife movement may occur between the open space in Newport Banning Ranch and the Project site.

The DEIR states that Regional movement would not be possible. What analysis was done to make this determination?

p.4.6-21: Special Status Wildlife Species-San Diego Fairy Shrimp

San Diego fairy shrimp (*Branchinecta sandiegonensis*) and Riverside fairy shrimp (*Streptocephalus woottoni*) are not expected to occur on the Project site due to lack of suitable habitat. The Project site is located outside of designated critical habitat areas for these species.

Please identify the suitable habitat for presence of the Special Status Wildlife Species under discussion: San Diego Fairy Shrimp, Fish, Amphibians, Reptiles, and Birds.

p.4.6-25: Special Status Plants

California boxthorn, *Lycium californicum*, a CNPS List 4.2 species, was observed in the southern coastal bluff scrub located in the central, preserved portion of the Project site. Impacts on this species would be considered adverse but less than significant due to the low status of this species and the relative abundance throughout its range.

Impact Summary: Less Than Significant.

The Project would not have a substantial adverse effect on any special status plant species.

Please provide a map to show the distribution of California Boxthorn, so that the areas impacted are known. What % of existing habitat for the California Boxthorn will be removed and where?

p.4.6-25: General Habitat Loss and Wildlife Loss

Removing or altering habitats on the Project site would result in the loss of small mammals, reptiles, amphibians, and other slow-moving animals that live in the proposed Project's direct impact area. More mobile wildlife species that are now using the Project site would be forced to move into the remaining areas of open space, which would consequently increase competition for available resources in those areas. This situation would result in the loss of individuals that cannot successfully compete.

The loss of native and non-native habitats that provide wildlife habitat is considered an adverse impact. However, the loss of habitat would not be expected to reduce wildlife populations below self-sustaining levels in the region. Therefore, this impact would be considered adverse, but less than significant.

Please provide an analysis of the potentially affected species, and the impacts to their self-sustaining levels. Would any of the species approach thresholds that could cause extirpation if unusual, but not impossible, environmental events occur, e.g. disease, fire, presence of a new predator?

Threshold 4.6-6: Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? The Project site occurs within the Santa Ana River Mouth Existing Use Area of the Central/Coastal Subregion NCCP/HCP. Existing Use Areas are comprised of areas with important populations of Identified Species but which are geographically removed from the Reserve System. The NCCP/ HCP does not authorize Incidental Take within the Existing Use Areas; such activities must be submitted to the USFWS for review and approval, consistent with existing federal law. The Project would not conflict with the provisions of an adopted HCP/ NCCP because it does not impact areas identified as part of the Central/Coastal Subregion Reserve System nor does it utilize the Take allocations associated with projects in the Subregion that are outside the Existing Use Areas.

Impact Summary: No impact would occur.

Please provide a diagram showing the relevant Central/Coastal Subregion Reserve System NCCP/HCP areas under discussion.

p.4.6-33, MM 4.6-4 and 4.6-5: Implementation of the Project would result in the loss of 0.41 acre of coastal sage scrub habitat. Permanent impacts on coastal sage scrub vegetation must be mitigated at a two-to-one (2:1) ratio on the Project site or in suitable off-site locations in the Newport Beach/ Costa Mesa area. Please identify appropriate areas for mitigation on site under discussion, and in other City locations. To what extent does the current Sunset Ridge Park landscaping plan promote mitigation on site, and maintain / reflect the natural character of the site?

4.7 CULTURAL & PALEONTOLOGICAL RESOURCES

Pursuant to THE SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION PROGRAM, Table 1-1, MM 4.7-1, 4.7-2, pages 1-22,23,24,25, harvesting of archaeological, paleontological artifacts, fossil remains, reports, maps, field notes, photographs etc. will be recorded and identified and noted in the Paleontological Resource Impact Mitigation Report and accessioned in the collections of a designated/accredited museum such as the Natural History Museum of Los Angeles or The San Diego Museum of Natural History.

Is it possible to note in the DEIR that consideration may be given to placing potential artifacts, fossils etc. into local collections at Cal State Fullerton or the University of California at Irvine?

Signs At Sunset Ridge Park Post Development: At the completion of the Sunset Ridge Park development, if it has been determined that significant Cultural and Paleontological Resources were present at the site, is it possible to install a sign to indicate the presence of these resources? Is it possible to install a sign to indicate the area is a natural habitat for various plant and animal species?

4.8 GEOLOGY AND SOILS

Page 4.8-5, Section 4.8.7, regarding the need for Fill: The DEIR needs to clarify what the "Fill" material is exactly. The developer needs to make sure the Fill material is clean and tested if necessary before being picked up, delivered and used at the project site- not only for the general public, and parking areas, but especially for the children at the sport fields.

No discussion is included regarding the specifics of the needed compaction numbers of the fill when it's brought to the site and installed. These need to be discussed to assure stability of the fill locations at project completion.

Also, there is no discussion of the details of the construction of the proposed playing fields. What standards/specifications are being employed to:

1. assure safe top soil for youth sports
2. assure safe and durable playing surface turf
3. assure proper drainage with no erosion

4.9 HAZARDS AND HAZARDOUS MATERIALS

History of the area: In the report, Hazards... section, page 4.9-3, there is a brief history of the Newport Banning Ranch, of which the proposed Sunset Ridge Park is a neighbor and a proposed user of part of the Ranch's former oil operations area. Some noteworthy information from this history: Oil operations in the area began over 2 generations ago, in 1944. Predating the Coastal Commission, it was exempt from its regulations, by Coastal Commission action in 1973. It is still, in parts, an active oil operation, including 470 producing and abandoned oil well sites and 16 wells operated by the City of Newport Beach. The proposed park would be accessed by a road through part of the Banning Ranch, as an easement. This proposed easement area has two abandoned (remediated) oil wells within it and the proposed park access road would transit former oil field access roads which "may contain gravel, crude oil hydrocarbons, tank bottoms or other structures/materials that were used in the past as road based materials associated with oil field operations". (Report page 4.9-3)

The proposed process for clean up: The primary potential hazard material at the site is petroleum hydrocarbons, as indicated above. Remediation typically includes, but is not limited to, underground capping of former oil wells and hauling away potentially polluted top soil. The Environmental Data Resources, Inc. (EDR) report, cited as the source for this report, estimates that over 90,000 cubic yards of soil will need to be hauled, and over 30,000 cubic yards imported as fill. The movement of both of these soils and the polluted soil's disposition is also a potential health hazard. Is there a health hazards analysis to assure that this phase of the project is conducted safely?

Since 2001, two separate Environmental Assessments (EAs) have been done on the Banning Ranch. They differentiated between Potential Environment Concerns (PEC), finding 23, and Recognized Environment Concerns (REC) finding 34. Of the 34 RECs, one is within the boundaries of the Sunset Ridge project. This REC, #27, was found to have "impacted soil", but the 2001 study stated "the amount of soil that would need to be removed was not determined" (Report, page 4.9-4, para #4). Given this, it is reasonable to conclude that the amount of soil movement, both out and in, may well be over the totals indicated in the above paragraph. This would affect both the time and money spent on this phase of the project. Please clarify the details of the "impacted soils" handling procedures with emphasis on the health hazards associated with these operations.

It is equally unclear if there are still pipes remaining from the wells that have been abandoned, and, if so, how many. "...all known active pipes were removed. However, it is possible that older subsurface pipes or other equipment could be present that have not

been recorded. Records and aerial photos do not show the presence of any oil sumps in the area.” Later, same paragraph (Report, page 4.9-7, para. #4): “Should any subsurface equipment or crude oil hydrocarbons be discovered, the equipment and contaminated soil would need to be removed”. Aren’t there other investigative steps that can be taken, other than the “Records and aerial photos”, to discover any existing oil sumps?? Have engineers, trained in this discipline, not walked and checked out the area? Where are their reports, if they have?

There are too many of the hazards and hazardous reports findings, important to the overall public safety involving hazardous materials, left to estimates that appear to be based on dated and vague information. The result (were the estimates to be too low and too conservative in any required mitigation), could well lead to a project that is much longer in preparation and construction and/or a public hazard risk. A prudent recommendation would be to undertake more recent and intense investigations of the site to resolve all or most of these potential hazards.

4.10 HYDROLOGY AND WATER QUALITY

Page 4.10-18 P1 5th Sentence RE: Exported Materials—would this excavation adversely affect Banning Ranch. Are there any BMPs in place for both the exportation of these materials and the vegetation that is to be removed to facilitate the exportation?

RE: same as above: What is the quality of the vegetation to be removed? If of high native quality is there any way to preserve or replant said materials?

Page 4.10-19: Water Quality Treatment BMPs P2 3rd Sentence: *Water quality treatment system design will “continue to evolve during project design”*. This is too vague to be useful. What BMP’s are being considered and how are they expected to evolve? Does the project expect to publish new BMP’s at the end of the project? If so, how do these find their way into common usage for future projects.

Page 4.10-22 P2 3rd Sentence: “..... BMPs would likely have a positive effect on environmental resources...” The EIR doesn’t specify why or how or give any quantitative or qualitative reasoning why the BMPs would have a positive effect.

Page 4.10-22 P4 5th Sentence: ... “*Detained flows is expected to be minor and would not result in creation or exacerbation of downstream risk of flooding*”. Where is the analysis to support this very important assertion?

Page 4.10-26 SC 4.10-4: Are there any checks in place to determine if “good housekeeping” practices are maintained and if yes, are there any repercussions if they are not being maintained? What standards are being applied?

4.11 PUBLIC SERVICES AND UTILITIES

What consideration has been given to incorporating renewable/clean energy technologies in this project? The following should be considered: energy efficient lighting, astronomical timers, low flow and/or reclaim water fixtures and irrigation.

EQAC appreciates the opportunity to comment on this important project for the City of Newport Beach. We hope that our comments are constructive and help in development of the best project for the City and the residents.